

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KENNETH NORTON and KENDALE FARMS,

Plaintiffs,

v.

Case No. 10-15104  
Honorable David M. Lawson

RICHARD P. ZUBKOFF, LAWRENCE E. BYERS,  
THOMAS LICKTEIG, DAVID MCPHERSON, and  
MOWTEQ, LLC,

Defendants.

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**ORDER DENYING MOTION TO COMPEL RESPONSE TO REQUEST TO  
PRODUCE DOCUMENTS AND TO PRESENT FOR DEPOSITION**

The matter is before the Court on the plaintiff's motion to compel response to request to produce documents and to present for deposition. The plaintiff's motion must be denied for failure to comply with the Federal Rules of Civil Procedure and the Eastern District of Michigan's Local Rules and Electronic Filing Policies and Procedures.

Federal Rule of Civil Procedure 5 requires written motions, except those that may be heard *ex parte*, to be served on every party. The plaintiffs' motion is not one that may be heard *ex parte*. The certificate of service attached to the motion does not indicate that defendant Mowteq, LLC was served. The certificate of service also fails to indicate the date the remaining defendants were served.

Rule 9(b) of the Court's Electronic Filing Policies requires every paper filed electronically to "include a signature block containing the name of the filing user represented by 's/', '/s/' or a scanned signature, firm name (if applicable), street address, telephone number, primary e-mail

address, and bar ID number (where applicable).” Plaintiffs’ counsel failed to “electronically” sign the motion and the certificate of service.

Local Rule 7.1(a) requires a movant to seek concurrence from the other parties and, if concurrence is not obtained, state “that there was a conference between attorneys or unrepresented parties and other persons entitled to be heard on the motion in which the movant explained the nature of the motion or request and its legal basis and requested but did not obtain concurrence in the relief sought; or despite reasonable efforts specified in the motion or request, the movant was unable to conduct a conference.” E.D. Mich. LR 7.1(a). The plaintiffs does not state in their motion that concurrence was sought in the relief requested from the defendants before filing the motion. “It is not up to the Court to expend its energies when the parties have not sufficiently expended their own.” *Hasbro, Inc. v. Serafino*, 168 F.R.D. 99, 101 (D. Mass. 1996). The plaintiffs have filed their motion in violation of the applicable rules.

Accordingly, it is **ORDERED** that the plaintiffs’ motion to compel response to request to produce documents and to present for deposition [dkt. #23] is **DENIED WITHOUT PREJUDICE**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: September 15, 2011

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 15, 2011.

s/Deborah R. Tofil  
DEBORAH R. TOFIL